

## Letter to the editor

## Surrogacy in India

*Editor,*

We read with interest the manuscript entitled "Forensic considerations of surrogacy – an overview" by B.R. Sharma, published in the 2006 February issue of the Journal of Clinical Forensic Medicine.<sup>1</sup> The author discusses the medicolegal, ethical and social aspects of surrogacy. In doing so, the practice of surrogacy in the United Kingdom, the USA and India have been elaborated. The Indian Guidelines (cited reference number 9)<sup>1</sup> are referred by the author. He states that the National Guidelines sternly prohibit close members of the infertile couple from acting as surrogates. However, the recently published 2004 National Guidelines for the Accreditation, Supervision and Regulation of Assisted Reproductive Technologies (ART) Clinics in India,<sup>2</sup> provides for a section 3.10.6, where a relative may act as a surrogate mother for the infertile couple. The newly drafted Indian Guidelines have a similar view as compared to other nations like the United Kingdom and the USA, with regard to the issue of participation of relatives and close friends in surrogacy.

We would also like to add some important provisions relevant to the practice of surrogacy in India, in response to the issues discussed in the review article by B.R. Sharma.<sup>1</sup>

The section 3.8 of the National Guidelines specify the requirements for a surrogate mother. No woman may act as a surrogate more than three times in her lifetime. A surrogate mother should not be over 45 years of age. Before accepting a woman as a possible surrogate for a particular intended couple's child, the ART clinic must ensure that the woman satisfies all the testable criteria to go through a successful full-term pregnancy. A relative, a known person, as well as a person unknown to the intended couple may act as a surrogate mother. A prospective surrogate mother must be seronegative for HIV, hepatitis B and C viruses. In her agreement for surrogacy she must state that she has not had any drug intravenously administered into her through a shared syringe, she has not undergone blood transfusion, and she and her husband have had no extra-marital relationship in the last six months. This is to ensure that the surrogate would not come up with symptoms of

HIV infection during the period of surrogacy. The prospective surrogate must also declare that she will not use drugs intravenously, undergo blood transfusion excepting of blood obtained through a certified blood bank, and avoid sexual intercourse during the pregnancy.<sup>2</sup>

The Guidelines do not specifically mention that the surrogate should be a married woman. The same is probably implied from the sections 1.2.33 and 3.10.7 of the Guidelines, and the sample consent form for surrogacy provided by the Guidelines. The section 4.7 of the Guidelines states that the surrogate must agree for surrogacy only after obtaining consent from her husband.<sup>2</sup> However, the Guidelines do not mention surrogacy by an unmarried woman.

While the United Kingdom has Legislation and Guidelines for the practice of surrogacy, in India, the National Guidelines govern the practice of surrogacy. For the National Guidelines to be implemented effectively, legislation is necessary, in India.

### References

1. Sharma BR. Forensic considerations of surrogacy – an overview. *J Clin Forensic Med* 2006;13:80–5.
2. Indian Council of Medical Research and National Academy of Medical Sciences (India). National guidelines for accreditation, supervision and regulation of ART clinics in India. New Delhi: ICMR; 2004.

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